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11 *Proposed Counsel to the Official*
12 *Committee of Unsecured Creditors of*
Easterday Ranches, Inc.

13 UNITED STATES BANKRUPTCY COURT
14 EASTERN DISTRICT OF WASHINGTON

15 In re:
EASTERDAY RANCHES, INC., *et al.*,
16 Debtors.¹

Chapter 11

Lead Case No. 21-00141-11
Jointly Administered

**NOTICE AND MOTION FOR AN ORDER
DIRECTING RULE 2004
EXAMINATIONS OF THE DEBTORS
AND NON-DEBTOR PARTIES**

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21 ¹ The Debtors, along with their case numbers, are as follows: Easterday Ranches, Inc.
(21-00141) and Easterday Farms, a Washington general partnership (21-00176).

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2 PLEASE TAKE NOTICE that the Official Committee of Unsecured Creditors
3 of Easterday Ranches, Inc. hereby files this notice and *Motion of the Official*
4 *Committee of Unsecured Creditors for Easterday Ranches, Inc. for an Order*
5 *Directing Rule 2004 Examinations of the Debtors and Non-Debtor Parties*
6 (the “Motion”).

7 PLEASE TAKE FURTHER NOTICE that if you object to the Motion, you
8 must file a written objection with the Court on or before May 12, 2021 at 5:00 p.m.
9 (Pacific Time). If you do not timely file an objection, the Court may enter an order
10 granting the Motion without further notice to you.

11 PLEASE TAKE FURTHER NOTICE that a hearing on the Motion will be
12 held on May 19, 2021 at 11:00 a.m. (Pacific Time). Pursuant to court orders
13 responding to the COVID-19 pandemic, any party that wishes to address the court,
14 or appear without addressing the court, must appear by telephonic appearance. The
15 telephone conference call-in number is (877) 402-9757, Access Code: 7036041.

16 Dated: April 27, 2021

17 /s/ Christopher B. Durbin

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*Proposed Counsel to the Official
Committee of Unsecured Creditors of
Easterday Ranches, Inc.*

1 Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure and Rule
2 2004-1 of the Local Rules for the United States Bankruptcy Court for the Eastern
3 District of Washington (the “Local Rules”), the Official Committee of Unsecured
4 Creditors of Easterday Ranches, Inc. (the “Ranches Committee”) hereby moves this
5 Court for an order directing a Rule 2004 examination of Easterday Ranches, Inc.
6 (“Ranches”) and Easterday Farms (“Farms”), debtors and debtors in possession (the
7 “Debtors”) in the above-captioned chapter 11 cases, as well as certain non-Debtor
8 parties identified (the “Non-Debtor Parties”). In support of this motion (the
9 “Motion”), the Ranches Committee respectfully represents as follows:

10 I. JURISDICTION

11 1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§
12 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The
13 predicates for the relief sought herein are Section 105 of the Bankruptcy Code and
14 Rule 2004 of the Federal Rules of Bankruptcy Procedure. This is a core proceeding
15 pursuant to 28 U.S.C. § 157(b)(2)(A).

16 II. BACKGROUND

17 2. On February 1, 2021 (the “Ranches Petition Date”), Ranches filed a
18 voluntary petition for relief under chapter 11 of the Bankruptcy Code before this
19 Court.
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1 3. On February 8, 2021 (the “Farms Petition Date,” together with the
2 Ranches Petition Date, the “Petition Dates”), Farms also filed a voluntary petition for
3 relief under chapter 11 of the Bankruptcy Code before this Court.

4 4. The Debtors continue to operate and manage their business and affairs
5 as debtors in possession in their chapter 11 cases pursuant to sections 1107 and 1108
6 of the Bankruptcy Code.

7 5. On February 16, 2021, the Office of the United States Trustee (the “U.S.
8 Trustee”) appointed the following creditors to the Ranches Committee, as amended
9 [Dkt. Nos. 152, 154, 155]: (i) J.R. Simplot; (ii) Alto Nutrients; and (iii) Animal
10 Health International.

11 6. On February 22, 2021, the U.S. Trustee appointed the following
12 creditors to the Farms Official Committee of Unsecured Creditors, as amended [Dkt.
13 Nos. 187, 188] (the “Farms Committee” and together with the Ranches Committee,
14 the “Committees”): (i) Labor Plus Solutions, Inc.; (ii) The McGregor Company; (iii)
15 John Deere Financial; (iv) Dykman Electrical Inc.; (v) Two Rivers Terminal; and (vi)
16 Frank Bushman.

17 7. Additional information about the Debtors’ historical business
18 operations, capital structure, and the events leading up to the commencement of these
19 chapter 11 cases, is set forth in the Declaration of T. Scott Avila in Support of First
20 Day Motions [Dkt. No. 93], which is incorporated herein by reference.

III. RELIEF REQUESTED

8. The Ranches Committee requests authority under Rule 2004 to (a) serve Notices of Rule 2004 Examination of the Debtors and Non-Debtor Parties with accompanying Requests for Production of Documents (the “RFPs”), a form of which is attached hereto as **Exhibit 1** (the “Rule 2004 Examination Notice”); and (b) at a mutually convenient date, time, place, and manner, conduct oral examinations of the Debtors and Non-Debtor Parties.

9. Rule 2004(a) provides, in pertinent part, that “[o]n motion of any party in interest, the court may order the examination of any entity.” *See* FED. R. BANKR. P. 2004(a). Rule 2004(b) states that the examination may relate to, among other things, “the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate, or to the debtor’s right to a discharge.” *See* FED. R. BANKR. P. 2004(b). In chapter 11, the scope of an examination may be further expanded to “the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan.” *Id.*

10. The scope of a Rule 2004 examination is “unfettered and broad,” as the wording of the rule indicates, *see In re Brazemore*, 216 B.R. 1020, 1023 (Bankr. S.D. Ga. 1998), and far broader than the scope of discovery under Rule 26 of the Federal

1 Rules of Civil Procedure. *See In re Lang*, 107 B.R. 130, 132 (Bankr. N.D. Ohio
2 1989). Examinations under Rule 2004 may include within their scope, among many
3 other things, any matter which may affect “the administration of the debtor’s estate.”
4 *In re Brazemore*, 216 B.R. at 1023. The well-settled scope of discovery conducted
5 under Rule 2004 is so fundamental to the bankruptcy process and permissibly broad
6 that courts have gone so far as to use with approval words and phrases such as
7 “fishing expedition,” “exploratory,” and “inquisition” to describe the breadth of the
8 examination. *See In re 2435 Plainfield Ave., Inc.*, 223 B.R. 440, 456 (Bankr. D.N.J.
9 1998); *In re Ionosphere Clubs*, 156 B.R. 414, 432 (S.D.N.Y. 1993); *Simon v. FIA*
10 *Card Servs., N.A.*, 732 F.3d 259, 268 n.6 (3d Cir. App. 2013).

11 11. Accordingly, Rule 2004 examinations may be used by a party to
12 evaluate the existence of the availability of assets of the estate. *See Ionosphere* 156
13 B.R. at 432; *In re Coffee Cupboard, Inc.*, 128 B.R. 509, 514 (Bankr. E.D.N.Y. 1991)
14 (“The purpose of a Rule 2004 examinations [*sic*] is ‘to show the condition of the
15 estate and to enable the Court to discover its extent and whereabouts, and to come
16 into possession of it, that the rights of the creditor may be preserved’”). In addition,
17 Rule 2004 examinations may be used by a party to evaluate the existence of potential
18 claims belonging to a debtor’s estate, primarily because claims of the debtor are
19 considered assets of the estate. *See In re Table Talk, Inc.*, 51 B.R. 143, 146 (Bankr.
20 D. Mass. 1985).

12. The Debtors and Non-Debtor Parties possess, or should possess, documents that are responsive to one or more of the requests for production of documents set out in the Rule 2004 Examination Notice. Additionally, the Debtors and Non-Debtor Parties have, or should have, knowledge concerning the Requested Information.

13. Each of the document requests to the Debtors and Non-Debtor Parties, as set forth in the Rule 2004 Examination Notice, are reasonably calculated to lead to the discovery of the Requested Information. Consequently, the information sought by the Ranches Committee herein is within the proper scope of Rule 2004 discovery.

IV. CONCLUSION

For the reasons set forth above, the Ranches Committee respectfully requests that the Court enter an order (a) authorizing the Ranches Committee to serve Rule 2004 Examination Notices on the Debtors and Non-Debtor Parties; (b) authorizing the Ranches Committee to conduct Oral Examinations of the Debtors and Non-Debtor Parties at a mutually convenient date, time, location, and manner; and (c) granting such other and further relief as the nature of this case may require.

Dated: April 27, 2021

/s/ Christopher B. Durbin
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CERTIFICATION

Pursuant to Rule 2004-1(a) of the Local Rules for the United States Bankruptcy Court for the Eastern District of Washington, the undersigned hereby certifies that he has not yet coordinated the time and place of any examination sought in the foregoing motion. At such time as the Ranches Committee seeks such examinations, counsel will coordinate the time and place with the Debtor(s) and/or Non-Debtor Party/ies from whom such examinations is/are sought.

Dated: April 27, 2021

/s/Christopher B. Durbin

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